

February 16, 2005

In the Matter of a Voluntary Green Power Choice Program
Docket No. EO0501001

Kristi Izzo, Secretary
Board of Public Utilities
Office of Clean Energy
Two Gateway Center
Newark, New Jersey 07102

Dear Secretary Izzo:

Please accept these comments on behalf of Public Service Electric and Gas Company (PSE&G or Company) in the above-referenced matter. An original and ten copies are enclosed.

Introduction

PSE&G has been an active participant in the Voluntary Green Power Choice Program (GPC Program or Program) working group since its inception. Despite PSE&G's concerns about the cost-effectiveness of such a program, the Company has worked with Board Staff, other Electric Distribution Companies (EDCs), potential Green Power Marketers (GPMs), and other stakeholders in the working group to support the Board's efforts to create the Program.

The Company has reviewed the Draft Proposal dated January 5, 2005. While the Draft Proposal has addressed several of the Company's initial concerns about

the Program, there are still several unresolved issues. In addition, certain other elements of the Draft Proposal require clarification.

Roles & Responsibilities (Draft Proposal, pp.5-7)

The opening paragraph of this section states the “primary goal for OCE in determining roles and responsibilities is to facilitate a strong marketing and operational relationship between each EDC and the participating GPMs” This statement is not consistent with the respective roles and responsibilities set forth in the remainder of the Draft Proposal. The EDCs will have a very small role in the marketing of the program – essentially limited to distributing the initial information and enrollment materials through bill inserts and perhaps handling general customer inquiries to the EDC’s call center. Similarly, there will not be a “strong operational relationship” between the EDCs and the GPMs, aside from the processing of customer enrollments through the EDI process, and transfer of billing information and payment of customer charges. Accordingly, the Board should amend the sentence to reflect the corresponding roles of the EDCs and GPMs.

PSE&G notes with approval that the use of the EDC’s logo in the program will be entirely voluntary (Draft Proposal, p.5). The sample logo use agreement (Appendix B) is from the Connecticut program, and will need to be revised for use in New Jersey. PSE&G recommends that the Working Group form a sub-group to revise

this document as well as the other GPM/EDC agreements required to implement the Program.

Compensation & Cost Recovery (Draft Proposal, pp.7-8)

The Draft Proposal states that the Board will “authorize[] the EDCs to utilize deferred accounting for the reasonable and incremental operational costs incurred to implement the GPC Program, subject to review by the Board at a later point in time, and after Board review and approval, will be eligible for recovery through the Demand Side Management Clean Energy Program - Societal Benefits Charge.” (Draft Proposal, p. 7.) The Draft also states “[i]n order to enable cost recovery for the host EDC, OCE will work towards establishing the following: Definition of baseline program services to be eligible for cost recovery” In identifying these baseline program services, the Draft lists the following:

- Modifications of EDC billing systems needed for line item billing
- Customer line item billing and payment processing
- Facilitation of customer enrollment including the use of bill inserts
- Program reporting¹

While the Draft Proposal also states that the OCE and Working Group will work to further define “the specific activities and expenses that will be recoverable and eligible for payment from CEF”, PSE&G emphasizes that it is important to establish specific EDC activities and tasks that are eligible for cost recovery prior to the EDC

¹ Draft Proposal, p.8.

incurring such costs. At a minimum, PSE&G recommends including the following additional elements in the baseline program services for which the EDCs may recover costs through the Societal Benefits Charge (SBC):

- EDI costs associated with the GPC Program;
- All incremental IT costs associated with the GPC Program;
- Training costs (for call center and billing personnel);
- Program management costs (incremental costs for personnel necessary to implement and manage the EDC's role);
- All costs associated with the production and mailing of bill insert/ballot, including additional postage costs if applicable (e.g., if insert takes the bill over an ounce in weight);
- Incremental costs to provide customer account look-up service and/or "seamless move" capability, if implemented in the future.

Finally, PSE&G must emphasize the need for clear, unambiguous cost recovery language in the Board's order approving the GPC Program. While the Board of course has the ability to review the reasonableness of a utility's expenditures in the context of a future Societal Benefits Charge (SBC) proceeding, the Order authorizing the program should definitively state that all reasonable and prudent EDC expenditures for the GPC Program are fully recoverable through the SBC.

GPM Qualification Criteria (Draft Proposal, pp.8-9)

In addition to the other requirements listed, this section should specifically state that a GPM must execute the GPM Agreement/Billing Services Agreement with each EDC prior to offering products to customers.

Another issue that arises in the context of GPM qualifications is creditworthiness requirements. The Draft Report contains several conflicting statements about GPM creditworthiness and licensing criteria that must be clarified.

The Draft Report states that “GPM Registration Criteria include: New Jersey licensed energy suppliers that demonstrate creditworthiness.” (Draft Report, p.9) However, aside from this statement, there are no specific creditworthiness requirements for GPMs identified in the body of the Draft Report. In fact, the Draft Report specifically exempts GPMs from the “those financial assurance requirements pertaining to Load Serving Entities”, including N.J.A.C. 14:4-2.6(a) and 14:4-2.6(e). *Id.* However, Appendix C (Interim Green Power Marketer Licensing Standards) states that a “GPM must maintain a surety bond in an amount prescribed in N.J.A.C 14:4-2.6(e) to insure against a failure to pay taxes or assessments, or a failure to meet contractual commitments to obtain and retire RECs in amounts matching the products offered.”² The amount of the surety bond specified in N.J.A.C. 14:4-2.6(e) is \$250,000. But, the next section of Appendix C (4(b)1) establishes \$25,000 as the amount of the bond required to “insure against a failure to pay taxes or assessments, or a failure to meet contractual commitments to obtain and retire RECs” Finally, Appendix F (Business Practices

² Draft Proposal, p. 27.

and Protocols) specifies that a “GPM must sign a GPM Agreement / Billing Services Agreement with each EDC and adhere to all provisions, including credit requirements.”³

At a minimum, the Board must clarify what the creditworthiness requirements for GPMs will be. While PSE&G agrees that the same creditworthiness standards applicable to third-party suppliers (TPSs) may not be necessary for GPMs, it is nonetheless important that the Board establish some minimum creditworthiness requirements for GPMs that are separate and apart from the licensing requirements, to ensure customer confidence in the program and protect the State, the EDCs, and consumers from the consequences of a GPM default. Unlike the proposed \$25,000 bond in the licensing requirements, such minimum credit requirements should be reflective of the number of customers that a GPM serves (i.e., the total credit requirements should increase with customer participation). As the Board recently stated in approving less stringent creditworthiness requirements in the context of TPS Agreements:

The Board believes that residential customers, who may lack the sophistication or resources to do their own creditworthiness checks, will assume that some other entity, such as the Board and/or the EDC will have provided safeguards to protect them from doing business with TPSs that lack financial viability. The proposed requirements help protect ratepayers from TPS default, [and] provide integrity and stability to the marketplace by allowing entry only to creditworthy participants⁴

³ Draft Proposal, p.39.

⁴ *In the Matter of the Approval of Amendments to the Creditworthiness Requirements in the Third Party Supplier Agreement*, Decision and Order (12/23/04), Docket No. EX03030185.

The same rationale applies to the creditworthiness of GPMs, and PSE&G urges the Board to adopt appropriate creditworthiness requirements for the Green Power Choice Program.

Consolidated Billing (Draft Report, pp. 10-11)

PSE&G generally concurs with this section of the Draft Report. However, the discussion of the time frame for program launch requires some clarification. While the Draft Report states “[c]hanges and modifications to billing systems will be made in time to launch the Program, specifically 8 months following the issuance of a Board Order by the BPU establishing and authorizing the Program,” the Report does not specifically define what it means by program “launch.”

As the Company has stated throughout the working group meetings, the 8 month implementation target is an ambitious timeline, given the significant programming and back office changes that the EDCs will have to make to provide the capability to bill customers for this program and implement the other enrollment processes. In addition, the various other deliverables, many of which are the responsibility of the Office of Clean Energy and are required prior to program launch, will also take time to implement. Indeed, a complete work plan needs to be developed to understand the detailed timetable for the full program. PSE&G is committed to deploy the appropriate resources to help implement the program in a timely manner, and will work closely with the OCE, the other EDCs, and the Green Power Marketers to do so.

Customer Account Information (Draft Report, pp. 15-16)

PSE&G continues to have concerns about the Draft Report's discussion of the provision of customer account information. The Company has raised its concerns throughout the working group meetings and in written comments to the Board and OCE Staff. Nonetheless, the treatment of the so-called "account number lookup" issue in the Draft Report is both unclear, internally inconsistent, and problematic.

As PSE&G has stated previously, it cannot process customer enrollments without an account number. At the December 13, 2004 working group meeting, Green Mountain Energy made a proposal that would require the EDCs to manually "look up" customer account numbers upon request of a GPM based on customer name and address, and provide the account number to the GPM, which would then enroll the customer through the EDI process.

As the Board is aware, the issue of an EDC providing an account number "look-up service" has arisen in the context of retail choice and third-party suppliers. The Board's current anti-slamming regulations and customer enrollment processes require the TPS to provide the customer account number to the EDC to validate the enrollment. The EDCs are not required to and do not provide an account number "look-up service." There is no compelling reason for the Board to change this requirement for the Green Power Choice Program.

In addition to increasing the costs to the EDCs to operate this program⁵, the provision of this “look-up service” would cause significant consumer protection concerns (e.g., unintentional enrollments, the potential for slamming). While the provision of this “look-up service” may make it easier for GPMs to enroll customers, its adoption would remove a key consumer protection step in the enrollment process that has been in effect (and has been effective) since the start of retail choice – the requirement for the customer to provide his/her account number directly to the supplier to avoid slamming or unintentional enrollments. Moreover, if the Board were to require the account number look-up for GPMs, it is likely that it would then be permitted for TPSs as well, further increasing consumer protection concerns and the EDCs’ costs.

The Draft Report’s discussion of this issue appears self-contradictory. At page 15, the Report states:

OCE is committed to developing and implementing a solution that improves the GPM’s ability to get accurate account numbers without compromising customer privacy. As noted during discussions, OCE does not want to delay Program implementation until this service is available but will consider requirements for this service consistent with all rules and regulations or necessary revisions to those rules as set forth at N.J.A.C. 14:4-3, to be implemented within six months of Program launch.

⁵ The cost estimate PSE&G has provided to the OCE and the working group to implement its responsibilities under the GPC Program does not include any costs associated with providing an account number look-up service to GPMs.

However, on the next page, the Report acknowledges that “[s]tudies of other markets conflict on the scope of this problem.” Thus, the Board Staff appears to be rushing to find a solution to a problem that may not even exist.

Then, to confuse the issue even more, the Draft Report lays out two “options”: one where the customer provides their account number to the GPM; and a second where the GPM obtains the customer’s consent and then contacts the EDC to obtain the account number. (Draft Report, p.16.) This second option is the “customer account look-up” service that PSE&G objects to. However, it is unclear whether the Draft Report is proposing this as an option available at Program start-up, or at some point in the future, or simply for continued discussion in the working group.

Finally, the Draft Report concludes its discussion of this issue by stating “a better solution that is both quicker, recognizing the inherent problems in the existing system and fairer, recognizing the privacy issues, for customer service than the current situation will be sought by the BPU in consultation with the EDCs and the GPM within the first year of the program.” *Id.* It is unclear how this one-year time frame relates to the six-month time period mentioned earlier, or to the two “options” discussed above.

The Board should see the GPM’s request for this “service” as what it really is – an attempt to shift customer acquisition costs from the GPM to the EDC, while sacrificing consumer protection. Rather than rushing to implement the customer account look-up service, the Board should first charge the working group with studying whether

there is even the need for enhanced GPM access to customer account information. Only if the Board determines that such a need exists should it consider the mechanisms for implementing it (as well as what rule or statutory amendments may be necessary), while preserving consumer protection. Finally, if the Board should eventually deem such a service is necessary, the Company would suggest that the Board also consider it a cost that the GPM should pay for directly, as it is directly offsetting their acquisition costs.

Customer Reenrollment (Draft Report, pp. 16-17)

Similar to the treatment of the customer account number issue, the Draft Report's discussion of customer reenrollment after the customer moves (the so-called "seamless move") proposes a solution for a "problem" that may not exist. While the Report states that it will monitor "the number of customers affected and the degree of the impact on the customer and the GPC Program" through the Customer Report Card system, it nonetheless pre-determines that the issue is a "program deficiency" and recommends that a "solution" be integrated into the GPC Program "within one year of Program launch." (Draft Report, p.17).

As PSE&G has stated throughout the working group meetings (and in its October 20, 2004 and December 21, 2004 written comments), the Company's systems do not support an automatic re-enrollment when a customer moves. While there are potential solutions to the EDI portion of the reenrollment transaction, these do not

address the EDC's customer account system issues. As Board Staff is aware, the seamless move issue has arisen in the context of retail choice in New Jersey and in other jurisdictions and has not been successfully implemented anywhere.

Finally, PSE&G emphasizes that the cost estimates it has provided to Board Staff and the working group did not include a seamless move component of the Program. Should the Board decide to require the seamless move capability as a mandatory element of the Program in the future, each EDC's costs would increase, if it can be implemented at all.

Accordingly, rather than pre-judge the need for future program changes to incorporate a seamless move capability, PSE&G recommends that the Board monitor this issue during the first year of program implementation and determine whether this issue needs to be addressed and, if so, possible mechanisms to do so.

Program Marketing (Draft Report, pp.17-18)

While PSE&G generally concurs with the discussion in this section of the Draft Report, the second bullet under this heading (at p.17) addressing press releases requires clarification. The Draft Report states that "[t]he EDCs and GPMs will participate in coordinating activities associated with periodic press releases concerning the Program." PSE&G's understanding during the working group meetings was that the EDC's participation in marketing activities such as press releases would not be

mandatory. Therefore, PSE&G suggests revising this statement to read: “The EDCs may, at their discretion, participate in coordinating activities associated with periodic press releases concerning the Program.”

Conclusion

PSE&G respectfully requests that the Board incorporate the foregoing changes and clarifications to the Draft Proposal. The Company appreciates the opportunity to provide comments and looks forward to continuing to work with OCE Staff and other stakeholders to successfully implement to GPC Program.

Very truly yours,

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